



Report to Standards and General Purposes Committee

Date: 13 April 2023

Title: **Annual Review of Member Code of Conduct Complaints**

Relevant councillor(s):

Author and/or contact officer: Nick Graham, Service Director, Legal and Democratic.
Contact officer Glenn Watson, Principal Governance Officer.

Ward(s) affected:

Recommendations:

- 1) To note and comment on the annual review of the Member Code of Conduct Complaints for 2022/23**
- 2) To note the decision of the Stage 3 Hearing Sub-Committee with regard to three complaints about a Hughenden Parish Councillor**

Reason for decision:

The Committee has oversight of Member Code of Conduct Complaints both for this Council and for parish and town councils. The report provides an annual review of the complaints considered during 2022/23; and of the effectiveness of the arrangements for handling them.

Executive summary

1.1 This report provides the Committee with a review of the Member Code of Conduct complaints dealt with during 2022/23. It also outlines the effectiveness of the procedure; reports on the training given by the Monitoring Officer; and highlights emerging best practice in ethical governance. The report also updates the Committee on the outcome of a Stage 3 Hearing Sub-Committee into three complaints about a Hughenden parish councillor.

Review of Complaints and Procedure

2.1 This report addresses four points:

- A) An outline of complaints considered during 2022/23 – differentiating between this Council and those relating to parish/town councils; including information on the nature and outcome of each.
- B) The effectiveness of the Council’s complaints arrangements.
- C) Stage 3 Hearing Sub-Committee into complaints about a Hughenden parish councillor.
- D) Training and best practice overview.

2.2 The review builds on the quarterly reports received by the Committee throughout 2022/23.

A. Complaints considered

Generally

2.3 Annexes 1 and 2 set out the complaints considered during 2022/23. Annex 1 relates to **Buckinghamshire Council**; Annex 2 to **parish and town councils**. An indication is given of:

- a) The source of the complaint (for example, the public; a fellow councillor).
- b) The nature of the complaint (a brief description; and the Code provision that the complainant believed to be engaged).
- c) The stage of the process at which the complaint was resolved (if so).
- d) The time taken to resolve the complaint.
- e) The outcome (for example, whether there was an informal resolution; no case to answer; or a breach).

2.4 Mindful of personal data, it is not appropriate to give details of the identity of the complainants, the subject member or identifying details of the complaints themselves. Notes have been added to each Annex, though, to give the Committee more information on the **number of councillors** who were the subject of complaints; and (on Annex 2) a **list of the parish councils** about which complaints were received.

2.5 In some cases more than one person made a complaint about the same alleged behaviour/incident. For transparency reasons, the Annexes list the total number of complaints received even where they related to the same subject matter. This gives the Committee a fuller picture not only of the complaints but of the number of persons who sought to use the Council’s complaints arrangements.

Headlines

2.6 Table 1: complaints and breaches

Authority	Complaints	Complaints with breaches
Buckinghamshire	18 (7 in 2021/22)	0
Parish/town	15 (27 in 2021/22)	3
Totals	33 (34 in 2021/22)	3

2.7 **Table 1** shows that the overall number of complaints considered in 2022/23 was roughly the same as in 2021/22. The number of complaints about Buckinghamshire Councillors **increased** in 2022/23; whereas the number of complaints about parish councillors **decreased**. The split between Buckinghamshire Council and parish and town councils, though, was very different from the previous year.

2.8 Nine individual **Buckinghamshire Councillors** were the subject of a complaint in 2022/23. However, while 18 people made complaints, in 10 cases these related to three particular circumstances; that is, there were multiple complaints about the same matter. One councillor, for instance, was the subject of five complaints about the same subject. Effectively, there were 11 different circumstances that caused a complaint to be made.

2.9 Nine individual **parish and town councillors** were the subject of a complaint in 2022/23. However, while 15 people made complaints, in only one instance did two complainants make a complaint about the same incident. Effectively, there were 13 different circumstances that caused a complaint to be made. One parish councillor was the subject of seven (nearly 50%) of the complaints received, covering six different circumstances. The members complained about came from six individual parish and town councils.

2.10 **Table 2** shows the aspects of the Code cited by complainants. It shows that the most commonly alleged breach of the Code was **Respect**. Overall, perceived disrespect

was a cause of complaint in 25 of the 33 (76%) complaints received. It was equally the case for both tiers of council. This reflects the national picture, as seen in paragraph 6.2 below. The second most common allegation was ‘bullying’ at parish level and ‘bias and predetermination’ at Buckinghamshire Council.

2.11 Table 2: aspects of the Code

Code/Authority	Buckinghamshire	Parish/Town
Respect	13	12
Bullying	0	4
Bias/predetermination	3	0
Interests	1	2
Personal data	1	2
Hospitality	1	0
Disrepute	0	1

2.12 Last year, the **source** was predominantly internal across both councils; that is, from fellow councillors or officers. For 2022/23, this has levelled out, as at Table 3.

2.13 Table 3: source of complaints

Source/Authority	Buckinghamshire	Parish and Town
Councillor	4	5
Employee	1	2
Public	13	8
Total	18	15

2.14 For Buckinghamshire Council, in eight individual complaints (relating to four separate incidents), a member of the public expressed concern about a councillor acting in a

formal meeting setting; in three of the incidents, the subject member was the chairperson of the meeting. In each case, there was an unhappiness with the outcome of the item in question and the Code complaint was raised in connection with the handling of the meeting. In none was a breach found.

B. The effectiveness of the Council's complaints arrangements

3. Cases and commentary

- 3.1 During 2022/23, this Committee undertook a review of the Council's published arrangements for dealing with complaints against councillors. In doing so, the Committee reviewed them alongside best practice issued by the Local Government Association, and a survey of other councils' processes.
- 3.2 The outcome of the review was that the Council's arrangements were sound but that a specific timeframe was needed for undertaking an Initial Assessment. The Local Government Association's recommended timeframe of 15 working days was adopted. The Council's arrangements consist of the following stages:
- a) An initial assessment – to determine whether a councillor was acting as a councillor at the time of the alleged breach; and whether, if proven, the matter would amount to a breach of the Code
 - b) Stage One – the subject member is asked to comment along with any suggestion to resolve the complaint informally (if appropriate)
 - c) Stage Two – the Monitoring Officer or Deputy Monitoring Officer determines if an informal resolution is possible or whether an investigation should take place
 - d) Stage Three – formal investigation, with a report presented to a meeting of the Hearing Sub-Committee of this Committee, if necessary.

Compliance with timeframes

- 3.3 During 2022/23, the **Buckinghamshire Council** complaints were all considered within the timeframes apart from one: in that case, the Initial Assessment took 19 days rather than 15 while certain evidence was checked with the complainant. One **parish and town council** complaint took 20 working days rather than 15 for the same reason. In all other cases, the complaints begun in 2022/23 have been conducted within time.
- 3.4 The Annexes show the stage at which the complaints were resolved. 52% of cases (17 complaints) were concluded at Initial Assessment as the Code was not sufficiently engaged. A further 36% (12 complaints) were closed at Stage 1 (Informal Resolution) with either no or minor action necessary. So, 88% of complaints were resolved without recourse to further escalation.

- 3.5 However, following consultation with the Independent Person and the Chairman of this Committee (at Stage 2), the Monitoring Officer considered three complaints to be serious enough to warrant a Stage 3 investigation. Subsequently, a Hearing Sub-Committee of this Committee was convened. This is considered in more detail below.
- 3.6 During 2022/23, The Council's arrangements were delivered proportionately and consistent with best practice. The Hearing Sub-Committee did have concerns about the lack of significant sanctions available to local authorities under the current ethical governance framework. This was a reflection on the shape of current legislation and matches concerns raised by bodies such as the Committee on Standards in Public Life and the Local Government Association.

C. Stage 3 Hearing Sub-Committee - Complaints about Cllr Derrick (Hughenden Parish Council)

4. Complaints and Decision Notice

- 4.1 Annex 3 is the Decision Notice of the Hearing Sub-Committee which met in January and March 2023 to consider three complaints about Cllr Linda Derrick of Hughenden Parish Council. The complaints alleged breaches of the Code in several respects. Following a Stage 2 review, the Monitoring Officer commissioned an independent investigation of each of the complaints. An external counsel was appointed to do this who interviewed the complainants and Cllr Derrick.
- 4.2 The investigation, the escalation to the Sub-Committee, and the latter's consideration of it the complaints, followed the Council's agreed processes. Given the nature of the personal data involved in the complaints, the Sub-Committee determined that the matter should be conducted in private, in exempt session.
- 4.3 The outcome was that Cllr Derrick was found to have breached the 'Respect' provision in each case, and the 'Bullying' provision in two of them. Five breaches in total were found. The Sub-Committee upheld the investigator's view that two other Code provisions were **not** breached ('Harassment' in one, and the 'Bullying' provision in another).
- 4.4 Cllr Derrick submitted written evidence to the Sub-Committee but did not attend either the first session (which ruled as to breaches); nor did she attend the reconvened meeting (which considered the sanctions) or offer any comment.
- 4.5 The procedure envisages that any potential sanctions identified by the Sub-Committee stand as recommendations to Hughenden Parish Council. It is for the Parish Council to decide whether to adopt them, having regard to its own duties to promote and maintain standards of conduct.

- 4.6 The sanctions recommended to Hughenden Parish Council are outlined in the Decision Notice. The Parish Council was due to consider them on Monday 3 April and the Committee will be updated on the outcome.
- 4.7 Cllr Derrick did not consider she had breached the Code in any of the complaints. Nevertheless, the Sub-Committee unanimously found otherwise, following an independent investigation and having taken the advice of the Independent Person. The findings of breach (and non-breach) are matters of act and there is no right of appeal. Hughenden Parish Council's Member Code of Conduct contains the commitment: "I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct."
- 4.8 In the interests of transparency, about the Council's processes, a press release was issued at the request of the Sub-Committee to draw attention to the Council's Decision Notice.

D. Training and best practice overview

5. Training

- 5.1 During 2022/23, and in fulfilment of the Council's duty to promote and maintain good standards of conduct, the Monitoring Officer's team delivered training through the Buckinghamshire and Milton Keynes Association of Local Councils in July 2022 and January 2023. The training covered member code and complaints arrangements. This is a standing arrangement and the training is likely to be delivered again twice during the coming council year.
- 5.2 Two further sessions on the code were delivered, on request, to specific councils, Buckingham Town Council (in October 2022) and Hughenden Parish Council (January 2023).

6. Best practice guidance

- 6.1 During the year, several pieces of guidance have been issued by representative bodies, particularly to help parish and town councils embed good ethical governance.
- 6.2 The [Civility and Respect Project](#) is a joint initiative between the National Association of Local Councils (NALC), the Society of Local Council Clerks (SLCC) and county associations. The Project was conceived in response to growing concerns about the impact bullying, harassment, and intimidation on local (parish and town) councils, councillors, clerks and council staff and the resulting effectiveness of local councils.
- 6.3 A cluster of useful resources has been developed by the Project, including:

- a) A Civility and Respect Pledge. As yet, only a handful of Buckinghamshire local councils have adopted the pledge.
 - b) Template/model policies on councillor-officer protocol; dignity at work.
 - c) Guidance on roles and responsibilities; recruitment; social media use.
- 6.4 In October 2022, jointly with the Local Government Association, the Civility and Respect Project also produced useful [Guidance on the Local Government Association Councillor Code of Conduct for Local Councils](#). This takes the Association's guidance for councils generally and tailors it specifically to the parish and town council perspective. Based on the Association's model code of conduct, the commentary within it is useful for any councillor.
- 6.5 The Monitoring Officer's team has referenced these materials when delivering training. Similarly, the Hearing Sub-Committee highlighted that these materials might be useful to Hughenden Parish Council (unrelated to the complaints heard at the hearing).
- 7. Other options considered**
- 7.1 This report is an annual review of member code of conduct complaints and the arrangements for dealing with them. There are no alternative means of addressing this other than a report to this Committee which has oversight for member ethical governance.
- 8. Legal and financial implications**
- 8.1 There are no direct financial implications arising from this report.
- 8.2 Under the Localism Act 2011, Buckinghamshire Council has a duty to investigate complaints that a councillor of this Council or of a parish and town council may have breached the Code. This report gives feedback to the Committee on the activity undertaken by the Council in fulfilment of that duty.
- 9. Next steps and review**
- 9.1 A quarterly report will be made to the Committee throughout the coming year on the operation of the member code of conduct arrangements.
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